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Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the Centre Europe-tiers monde (CETIM), a non-governmental organization on the Roster

The Secretary-General has received the following communication, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[8 August 1994]

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1. Under agenda item 6, which is concerned with violations of human rights and fundamental freedoms in all countries, and in particular in colonial and dependent countries and territories, CETIM considers it essential to raise the question of Western Sahara. In the interests of their own credibility the NGOs must not content themselves with sporadic interventions on subjects of intense topical interest; rather, they have a duty to keep the experts of the Sub-Commission and the member States of the Commission on Human Rights informed of developments in situations which they are following closely, session after session.

2. There are six months to go before a possible referendum on self-determination as proposed by the Secretary-General of the UN in his last report on the subject (S/1994/189, dated 12 July 1994). What, at this time, is the situation regarding the human rights of the Sahrawi people in the occupied zones in Western Sahara and Morocco ? what concrete evidence is there of the willingness of Morocco to comply with the UN peace plan ? and what realistic prospects are there for the cessation of violations of human rights, for the compensation of detainees freed without trial and the families of persons who have died in detention and for deprival of impunity for the torturers who have caused so much suffering and so many deaths among the Sahrawi civilian population ?

3. In the occupied zones of Western Sahara the Sahrawis are in a sense prisoners in the midst of an enormous population of Moroccan settlers. All the evidence (whether anonymous or not) submitted by members of the United Nations Mission for the Referendum in Western Sahara (MINURSO) highlights the impossibility of contacting the Sahrawis and the role of the Moroccan police, which follows and verifies every movement of United Nations staff members wishing to speak to a Sahrawi. Furthermore, the information received from the Association of Families of Sahrewi Prisoners and Disappeared Persons (APAPREDESA) emphasises the lack of fundamental freedoms and the numbers of detentions currently taking place. How can it be imagined that, during the six months elapsing before the referendum date, the UN will be able to secure control of the situation, administer the territory and organize a free and fair referendum and provide for an electoral campaign in which the two parties can express themselves freely ? The declarations made at the beginning of July by King Hassan II on the subject of his amnesty are far from reassuring. That amnesty applies in fact only to prisoners who recognize that the Sahara is Moroccan. In such conditions how can one accept that the King is prepared to accept the democratic process of the referendum and to withdraw from the territory of Western Sahara if the Sahrawi people chooses independence ? If King Hassan II was sure that the result will be favourable to him, would he be placing so many obstacles in the way of the UN peace plan ?

4. Let us now turn to the latest attempt by Morocco to block the peace plan, as described by the Secretary-General in his report. After placing great difficulties in the way of the establishment of UN forces in Western Sahara in the autumn of 1991, and after challenging the identification criteria (to mention only two of many obstacles), the Moroccan Minister of Foreign Affairs has written to the UN Secretary-General stating that Morocco would acquiesce in the participation of OAU only if the latter adopted "a rational position with regard to the right of the population of Western Sahara for self-determination, by at least suspending the participation of the 'pseudo SADR' in the activities of the OAU". However, under the plan (S/21360, para. 46) representatives of OAU are to be associated with the process throughout. The Sahrawi Arab Democratic Republic (SADR) forms part of the OAU and is a full

member, having been accepted as such by a simple majority of the African States in 1982. The participation of the SADR in the pan-African organization has never been challenged; Morocco was the only country to withdraw from the OAU when the SADR was admitted. What can this challenge, at this stage, be other than an attempt to put a new obstacle in the way of compliance with the peace plan - a new delaying tactic ? To be consistent with its criticisms of the OAU (which, by admitting the RASD, recognized Sahrawi sovereignty over Western Sahara) Morocco, instead of organizing elections in the territory as though the latter belonged to it, should immediately have handed over the administration of the territory to the UN forces. The King would no longer have any grounds for making his "royal pardon" conditional on recognizing the Sahara to be Moroccan. This new obstacle, relating to OAU observers, cannot stand, but it will delay the implementation of the plan and distract attention both from the hostility of Morocco, which is opposed to the UN plan, and from the lack of determination of the Security Council, which is not forcing Morocco either to cease its delaying tactics or to comply with the peace plan it has actually accepted.

5. According to the latest report of the Secretary-General (S/1994/819), to enable the referendum on self-determination for the Sahrawi people to take place on 14 February 1995 (i.e., after 19 years of Moroccan occupation), we should shortly see exchanges of prisoners-of-war, the reduction of Moroccan forces in the territory, the confinement of combatants in specified locations, the release of political prisoners and detainees, the suspension of laws that could obstruct the conduct of a free and fair referendum and the repatriation of refugees, other Sahrawis and members of the Polisario Front entitled to vote. From this list it can be seen how closely the implementation of the peace plan is bound up with respect for human rights. Time is running short, and it is difficult to follow normal procedures. We therefore request the experts of the Sub-Commission to express to the different UN bodies concerned, including the Security Council, their support for the implementation of the letter and the spirit of the peace plan as adopted by the two parties. In view of the sealing off of the territory occupied by Morocco and the present impossibility of sending independent observers there, we request that the UN forces be strengthened and given a mandate to protect the Sahrawi population and to ensure respect of human rights in the territory. We also request the High Commissioner for Human Rights to visit the zones in Western Sahara occupied by Morocco to prepare a report on the situation and to inform accordingly the Secretary-General and the Commission on Human Rights at its next session.